

APPEAL NO. 040448
FILED APRIL 13, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 2, 2004. The hearing officer resolved the disputed issue by deciding that on _____, the decedent did not sustain a compensable injury that resulted in his death. The appellant (claimant) appeals, contending that the evidence showed that the decedent was in the course and scope of his employment at the time of the accident that resulted in his death. The respondent (carrier) asserts that sufficient evidence supports the hearing officer's decision.

DECISION

Affirmed.

The claimant had the burden to prove that the decedent was in the course and scope of his employment at the time he was involved in a motor vehicle accident while driving an employer vehicle that resulted in his death. The evidence reflects that the accident occurred while the decedent was driving home after finishing work for the day. The fact that the decedent was driving a company vehicle at the time of the accident is not dispositive of the question of whether he sustained a compensable injury. See Texas Workers' Compensation Commission Appeal No. 010996, decided June 21, 2001. The applicable law is set forth in Section 401.011(12) and Texas Workers' Compensation Commission Appeal No. 990949, decided June 17, 1999; Texas Workers' Compensation Commission Appeal No. 950361, decided April 24, 1995; Texas Workers' Compensation Commission Appeal No. 010122, decided March 5, 2001; Appeal No. 010996, *supra*; and Texas Workers' Compensation Commission Appeal No. 031529, decided August 5, 2003. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. We conclude that the hearing officer's determination that the claimant did not sustain a compensable injury that resulted in his death is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **PACIFIC EMPLOYERS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**ROBIN M. MOUNTAIN
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 300
IRVING, TEXAS 75063.**

Robert W. Potts
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Michael B. McShane
Appeals Panel
Manager/Judge